

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of

**MTA Communications, Inc. d/b/a MTA
Wireless**

**Petition for Waiver of Section 54.314(d) of
the Commission's Rules**

**WAIVER – EXPEDITED ACTION
REQUESTED**

CC DOCKET NO. 96-45

**MTA COMMUNICATIONS, INC. d/b/a MTA WIRELESS PETITION FOR WAIVER
OF SECTION 54.314(d) OF THE COMMISSION'S RULES**

MTA Communications, Inc. d/b/a MTA Wireless ("MTAW")¹, pursuant to Sections 1.3 and 1.925 of the Commission's rules², hereby petitions the Commission for a waiver of the universal service support certification deadlines found in Section 54.314(d) of the Commission's rules in order to receive high-cost loop support as of December 8, 2004, the date it was designated as an Eligible Telecommunications Carrier ("ETC") by the Regulatory Commission of Alaska ("RCA"). MTAW's request is indistinguishable from the relief sought by numerous other ETC's and that the Commission has routinely granted, as demonstrated most recently in the *Public Notice* it issued on August 11, 2006.³ Further, since MTAW's designation for ETC

1 At the time of its ETC designation, the petitioner was called Matanuska-Kenai, Inc. d/b/a MTA Wireless. The company has subsequently consolidated subsidiaries and the surviving entity is MTA Communications, Inc., d/b/a MTA Wireless.

2 See 47 C.F.R. §§1.3, 1.925. Pursuant to §1.1105 of the Commission's rules, there is no filing fee associated with this request.

3 See *The Telecommunications Access Policy Division of the Wireline Competition Bureau Grants Petitions Requesting Waiver of Various Filing Deadlines Related to the Universal Service Program*, Public Notice, DA 06-1625 (rel. August 11, 2006) ("Public Notice").

status, the Commission revised its rules to reflect its policy that a newly designated ETC should receive universal service fund support as of its designation date. MTAW, therefore, respectfully requests that the Commission grant it the waiver requested herein to allow MTA to receive high cost loop support for a portion of the fourth quarter of 2004 and for the entire first quarter of 2005 for use throughout the study area served by Matanuska Telephone Association, Inc. ("Matanuska").

I. INTRODUCTION AND SUMMARY

MTAW is a small regional carrier that provides wireless coverage to numerous communities within the study area of Matanuska, a rural local exchange carrier. MTAW offers a full range of competitive cellular services, including voice and data signals. MTAW's network employs state-of-the-art code division multiple access (CDMA) technology.

On December 8, 2004, the RCA granted MTAW's request to become an ETC for purposes of receiving federal and state universal service funding in the areas served by Matanuska.⁴ Following a full examination of the record, the RCA determined that designating MTAW as an ETC was in the public interest because the designation would bring to the area increased competition, lower costs for customers, the convenience of mobility, improved access to health and safety services, expanded facilities and enhanced service quality.⁵

MTAW was eligible to receive federal high-cost universal service support as of the effective date of its designation as an ETC, or December 8, 2004. Section 54.314 of the

⁴ See *In the Matter of the Request by Matanuska-Kenai, Inc., d/b/a MTA Wireless, for Designation as a Carrier Eligible to Receive Federal Universal Service Support Under Telecommunications Act of 1996*, Order Approving Application for ETC Status, Requiring Filings, and Closing Docket, Docket U-03-86 (Dec. 8, 2004). A copy of the Order is attached as Exhibit A.

⁵ See *id.* at 12-13.

Commission's rules, however, conditions an ETC's receipt of universal service support on its filing of a certification before a certain deadline.⁶ In order to receive high-cost loop support for the fourth quarter of 2004, MTAW had to have filed its certification before July 1, 2004. In order to receive high cost support for the first quarter of 2005, MTAW had to have filed its certification before October 1, 2004. Although MTAW filed its certification within the same week it became designated as an ETC, because this was not until December 8, 2004 – *after* each of these certification deadlines – there was no possibility for MTAW to meet the required certification deadlines to receive universal service support for the fourth quarter of 2004 or for the first quarter of 2005.⁷

The Commission has routinely granted the waiver of certification deadlines to ETCs that became designated after the quarterly deadlines had passed. On August 11, 2006, the Commission issued a *Public Notice* granting 14 petitions for waiver of various filing deadlines for ETCs seeking universal service funding from the date of their designation. Among the petitioners granted a waiver was ACS Wireless, Inc. ("ACSW"), which is also an ETC in the Matanuska study area and a direct competitor of MTAW. Further, since MTAW's designation, the Commission revised the rules to correct the unintended consequence that the certification deadlines caused. Section 54.314(d)(6) of the Commission's rules now allows a newly designated ETC to receive universal service support from the date of its designation by filing a certification within 60 days of its designation.⁸

⁶ See 47 C.F.R. § 54.314(d).

⁷ A copy of MTAW's initial certification that was filed with the Commission on December 14, 2004, is attached as Exhibit B.

⁸ See *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, FCC 05-46 (rel. March 17, 2005).

MTAW hereby seeks a waiver of the annual certification requirements set forth in Section 54.314(d) of the Commission's rules to rectify an inequity that it suffered under the Commission's rules as they existed prior to their amendment to address the very cause of MTAW's loss of high-cost loop support for almost four months. Waiver of this rule will allow MTAW to receive high-cost loop support for a portion of the fourth quarter of 2004 and the entire first quarter of 2005, and thereby enable customers of MTAW to receive the benefits the funding will bring to the service area.

II. REQUEST FOR WAIVER

Section 1.3 of the Commission's rules allows the rules to be waived "for good cause shown, in whole or in part, at any time by the Commission."⁹ Section 1.925 of the Commission's rules provides the Commission discretion to grant the waiver request if the petitioner demonstrates that:

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹⁰

Accordingly, the Commission "may exercise its discretion to waive rules where particular facts would make strict compliance inconsistent with the public interest."¹¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective

⁹ See 47 C.F.R. §1.3.

¹⁰ See 47 C.F.R. §1.925(b)(3).

¹¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

implementation of overall policy on an individual basis.¹² In light of the Commission's precedent on universal service funding for newly designated ETCs and the Commission's stated policies, strict compliance with Section 54.314(d) in this instance would be inequitable and inconsistent with the public interest. In fact, the Commission has recognized the inequities imposed on new ETC designees under the former version of its rules by amending those rules specifically to provide a recourse to newly designated ETCs prospectively.

A. Commission precedent supports the grant of this petition.

MTAW's request for waiver is supported by extensive and express Commission precedent. The Commission has found good cause to grant numerous petitions filed by ETCs for a waiver of certification deadlines when the ETC was designated after a quarterly certification deadline had passed.¹³ The Commission has explained that the purpose of Section 54.314(d) was to assist the Universal Service Administration Company ("USAC") with its reporting obligations and that it was not meant to disadvantage a newly designated ETC that is precluded from making the quarterly certification deadline due to the timing of its designation.¹⁴ The Commission has repeatedly found this exact situation to be a special circumstance that warrants a

¹² See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹³ See, e.g., *Federal-State Joint Board on Universal Service, Grande Communications, Inc. Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, DA 04-2534 (rel. Aug. 16, 2004) ("*Grande Order*"); *Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, DA 03-1169 (rel. Apr. 17, 2003) ("*Guam Cellular Order*"); *Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Waiver of Section 54.314 of the Commission's Rules and Regulations*, Declaratory Ruling, CC Docket No. 96-45, DA 03-2364 (rel. July 18, 2003) ("*Western Wireless Order*"); *Federal-State Joint Board on Universal Service, RFB Cellular, Inc., Petition for Waiver of Section 53.314(d) and 54.307(c) of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, DA 02-3316 (rel. Dec. 4, 2002) ("*RFB Order*").

¹⁴ See *Grande Order* at ¶9.

deviation from the filing schedule set out in the Commission's rules.¹⁵ Specifically, the Commission has explained that "it would be onerous to deny an ETC receipt of universal service support for almost two quarters because the ETC designation occurred after the certification filing deadline."¹⁶

Further, the Commission has revised Section 54.314(d) so that it no longer has the unintended effect that is the subject of this petition for waiver. The rule now allows newly designated ETCs to receive universal service support funding from the date of designation.¹⁷ The Commission agreed with commenters in the proceeding by which that rule change was adopted, including USAC, that the certification rules should be revised to "enable customers of newly designated ETCs to begin to receive the benefits of universal service support as of the ETC's designation date."¹⁸ Unfortunately, the change was made after MTAW suffered the unintended consequence that the Commission's rulemaking had corrected. Granting the waiver, therefore, would not frustrate the purpose of the rule but would instead align the Commission's treatment of MTAW with the Commission's own precedent on how Section 54.314(d) should be applied.

B. Strict compliance with the rule would be contrary to the public interest.

Granting MTAW waiver of the certification deadlines will support the Commission's goal of competitive neutrality, and will directly benefit consumers in the Matanuska service area. The Commission has found that "competitively neutral access to support is critical to ensuring

¹⁵ See, e.g., *Grande Order* at ¶9; *Guam Cellular Order* at ¶6.

¹⁶ See *Grande Order* at ¶ 9; *Western Wireless Order* at ¶8.

¹⁷ See 47 C.F.R. § 54.314(d)(6).

¹⁸ See *id.* at ¶ 92.

that all Americans have access to affordable telecommunications.”¹⁹ Denying MTAW universal service support for more than a full quarter because the timing of its ETC designation from the RCA precluded it from filing a timely certification would undermine the Commission’s goals of competitive neutrality.²⁰ Further, in the *Public Notice* the Commission granted a similar waiver to ACSW, one of MTAW’s direct competitors in the MTA study area.²¹ ACSW was granted high cost universal service funding for a portion of the third quarter of 2004 and for the entire fourth quarter of 2004.²² To strictly impose an impossible certification deadline on MTAW, yet waive the same rule under the same set of facts for its competitor, would be inequitable and contrary to the Commission’s stated policy of competitive neutrality.

Moreover, granting MTAW’s request for waiver of the section 54.314(d) certification requirements will further the Commission’s universal service program goals by promoting access to high quality telecommunications services to citizens in high cost areas. Universal service support has been critical in allowing MTAW to expand, upgrade, and maintain its facilities and services. Since MTAW was designated as an ETC and began receiving universal service support, MTAW has deployed new cell sites and added additional capacity throughout MTAW’s service area. It has enhanced customer use and service quality by upgrading facilities with CDMA technology, completing an RF Optimization, and developing its 1xRTT data network. Among other improvements, MTAW has changed and upgraded rectifiers, antennas,

¹⁹ See *Grande Order* at ¶10, citing *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, CC Docket 96-45, 14 FCC Rcd 20432, 20479-78, paras. 89-90 (1999), reversed in part and remanded in part, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001).

²⁰ See *Grande Order* at ¶10.

²¹ See *Public Notice* at 2.

²² See *In the Matter of ACS Wireless, Inc. Petition for Waiver of Sections 54.314(d) and 54.307(c) of the Commission’s Rules*; CC Docket No. 96-45.

microwaves, and tower safety inspections and modifications. The benefits of enhanced service quality and competitive choice has greatly benefited the customers in the MTA serving area. Denying MTAW's request for waiver of the certification requirements would be contrary to the Commission's continued universal service goals and is therefore contrary to the public interest.

III. CONCLUSION

For the forgoing reasons, the Commission should grant MTA Wireless's request for a waiver of the certification deadlines set forth in 47 C.F.R. § 54.314(d) so that MTA Wireless may receive high-cost universal service support in Alaska for the Company's designated service area commencing December 8, 2004, the date that MTA Wireless was designated as an ETC and therefore eligible to receive universal service support. MTA Wireless respectfully requests expedited action for its request.

Respectfully submitted,

MATANUSKA-KENAI, INC. d/b/a/
MATANUSKA WIRELESS

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Dated: November 1, 2006

Exhibit A

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

In the Matter of the Request by MATANUSKA-
KENAI, INC., d/b/a MTA WIRELESS, for
Designation as a Carrier Eligible to Receive
Federal Universal Service Support Under
Telecommunications Act of 1996

U-03-86

ORDER NO. 3

ORDER APPROVING APPLICATION FOR ETC
STATUS, REQUIRING FILINGS, AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We approve the application filed by MTAW¹ for status as an eligible telecommunications carrier (ETC) for purposes of receiving federal and state universal service funding in the areas served by MTA.² We require MTAW to annually file information with us describing its use of universal service funds (USF). We also require MTAW to report to us if there is no possibility of providing service to its customers upon reasonable request. We close this Docket.

¹Matanuska-Kenai, Inc. d/b/a MTA Wireless (MTAW).

²Matanuska Telephone Association, Inc. (MTA).

Background

We required MTAW to file additional information on how it will provide Lifeline and Link Up services and comply with FCC's³ emergency requirements. We also required MTAW to clarify what local area corresponds to its proposed ETC services.⁴ In its Response, MTAW included proposed basic rate allocation and terms and conditions for providing Lifeline and Link Up services and clarified its status in providing Phase I and Phase II, E-911 services.⁵

Further we required MTAW to file the following supplemental information:⁶ (1) maps showing a detailed description of the proposed areas for which it requests ETC designation relative to the service area of MTA, (2) an illustration of the expansion of its current wireless coverage area as an effect of its build-out plan, (3) the status of its compliance to the deployment schedule specified in the *Non-Nationwide Carriers Order*,⁷ and (4) an explanation of how its designation as an ETC would affect its deployment schedule in implementing Phase II, 911 enhanced services. MTAW submitted the information required by Order U-03-86(2) on July 27, 2004.⁸

³Federal Communications Commission (FCC).

⁴Order U-03-86(1), *Order Requiring Filings and Extending Comment Deadline*, dated February 17, 2004.

⁵MTAW's *Supplemental Information in Response to Order No. 1* (Response), dated March 18, 2004.

⁶Order U-03-86(2), *Order Requiring Filing*, dated June 24, 2004.

⁷Tier III carriers are defined as non-nationwide Commercial Mobile Radio Service (CMRS) providers with no more than 500,000 subscribers, such as MTAW. See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide Carriers*, CC Docket No. 94-102, Order to Stay (*Non-Nationwide Carriers Order*), FCC 02-210, (rel July 26, 2002), page 13, ¶ 34.

⁸MTAW's *Supplemental Information in Response to Order No. 2*, filed July 27, 2004 (Supplemental Response).

Discussion

Under the Telecommunications Act of 1996 (the Act),⁹ we have the authority to grant ETC status to a telecommunications carrier. We may also impose conditions to assure that the public interest is served.¹⁰

ETCs are eligible to receive support to provide, maintain, and upgrade facilities and services for the telecommunications services and functions defined by federal regulation at 47 C.F.R. § 54.101.¹¹ Under federal law, an ETC must provide the supported universal telecommunications service throughout a defined service area.¹² In addition, the applicant must meet the following criteria for ETC status: (a) demonstrate that it owns at least some facilities; (b) demonstrate its capability and commitment to provide the nine basic services required by FCC regulation;¹³ (c) reasonably show that granting designation as an ETC is in the public interest; and (d) show that upon

⁹Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) amending the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*

¹⁰*Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

¹¹47 U.S.C. § 254(e).

¹²47 C.F.R. § 54.201(d).

¹³The nine basic services are defined at 47 C.F.R. § 54.101.

1 obtaining ETC status, the applicant will be able to offer and will advertise the availability
2 of the services supported by the federal USF.¹⁴

3 Ownership of Facilities

4 MTAW has cellular facilities in the MTA service areas, including 21 cell
5 sites and a switch.¹⁵ MTAW stated that it will provide service using its own facilities or,
6 if necessary, its own facilities in combination with resale of services of another carrier,
7 such as MTA. In addition, MTAW provided locations and status of its currently
8 operational cell sites.

9 MTAW currently provides cellular service in the MTA service area through
10 its code division multiple access (CDMA)¹⁶ and time division multiple access (TDMA)
11 and advance mobile phone service (AMPS) networks. MTAW stated that with access to
12

13 ¹⁴Section 214(e)(1) and (2) of the Act provides:

14 (1) A common carrier designated as an eligible telecommunications
15 carrier under paragraph (2), (3), or (6) shall be eligible to receive universal
16 service support in accordance with section 254 of this title and shall,
17 throughout the service area for which the designation is received –

18 (A) offer the services that are supported by Federal universal
19 service support mechanisms under section 254(c) of this title, either
20 using its own facilities or a combination of its own facilities and
21 resale of another carrier's services (including the services offered
22 by another eligible telecommunications carrier); and

23 (B) advertise the availability of such services and the
24 charges therefor using media of general distribution.

25 (2) . . . Before designating an additional eligible telecommunications
26 carrier for an area served by a rural telephone company, the State
commission shall find that the designation is in the public interest.

¹⁵MTAW holds Cellular License (Call Sign) KNKQ340 for providing cellular
service in MTA's service areas.

¹⁶MTAW stated that its CDMA system is a handset location-based system that is
capable of providing the latitude and longitude identification of the calling wireless
phone.

1 federal USF it will accelerate its network upgrade to full CDMA deployment.¹⁷ Based on
2 our findings stated above, we conclude that MTAW meets the "ownership of facilities"
3 test.

4 Capability and Commitment

5 MTAW must provide enough information to demonstrate its ability to
6 provide each of the nine basic services designated by the FCC, including Lifeline and
7 Link Up services, or obtain a waiver.¹⁸ In its Application, MTAW stated that it currently
8 offers all nine basic services to its customers, and it commits to provide all nine services
9 throughout its proposed service area, including Lifeline and Link Up services,¹⁹ upon
10 receiving USFs.²⁰

11 MTAW certified that it currently provides voice grade access to the public
12 switched network through interconnection arrangements with local telephone
13 companies, offers different rate plans which offer "local usage,"²¹ provides both
14 out-of-band and in-band multi-frequency signaling, the functional equivalent of dual tone
15

16 ¹⁷During the first year after obtaining funding, MTAW plans to construct CDMA
17 facilities in Sutton, Sheep Mountain, South Big Lake and Port McKenzie, Alaska.
18 During the first year after obtaining funding, MTAW plans to construct new CDMA
19 facilities in Hatcher Pass, Petersville, Upper Parks Highway, Glenn Highway Flats, Butte
20 Area, and Deshka, Alaska. Supplemental Response at 2-3.

21 ¹⁸The FCC allows a state commission to grant waiver of the requirement to
22 provide single-party access to Enhanced 911 (E911), and toll limitation services to allow
23 additional time for a carrier to complete network upgrades necessary to provide service.
24 47 C.F.R. § 54.101(c).

25 ¹⁹Lifeline and Link Up services are services offered by ETCs to qualifying
26 low-income customers. Link Up is described at 47 C.F.R. § 54.411(a), and Lifeline is
described at 47 C.F.R. § 54.401(a).

²⁰Application at 4-7. See also Response at 1-3.

²¹Although the FCC has not set a minimum local usage requirement, MTAW
certifies that it will comply with the minimum local usage requirements adopted by the
FCC.

1 multi-frequency signaling, single party service, access to emergency services,²² access
2 to operator services, access to interexchange services, access to directory services,
3 and can readily implement toll-limitation for qualifying low-income customers.²³

4 Further, MTAW committed to deploy ten additional CDMA cell sites in
5 lower-density areas within its proposed service area.²⁴ MTAW also committed to adopt
6 the seven-step approach we approved for ADT to meet its ETC obligations to offer
7 services throughout the MTA service area.²⁵ We find this is a reasonable strategy for
8 providing service throughout its study area, but we add one additional requirement. We
9 require MTAW to report to us if it cannot provide service without constructing a new cell
10 site. The report must state the estimated cost of construction and MTAW's position on
11 whether the request for service is reasonable and whether high-cost funds should be
12 expended on the request. We imposed a similar requirement on ADT²⁶ in Order
13 U-02-39(10). We will address any requests by MTAW to deny service on a
14 case-by-case basis. If MTAW unreasonably fails to serve customers throughout its
15 designated service area, we would have cause to revoke its ETC status.

17
18 ²²Access to emergency services includes access to services, such as 911 and
19 E911, provided by local governments or other public safety organizations.
20 47 C.F.R. § 54.101(a)(5). "911" is a service that permits a telecommunications user, by
21 dialing the three-digit code "9-1-1," to call emergency services through a public service
22 access point (PSAP) operated by the local government. "Enhanced 911" is a 911
23 service that includes the ability to provide automatic number identification (ANI) and
24 automatic location information.

25 ²³Order U-02-39(10), *Order Granting Eligible Telecommunications Carrier Status*
26 *and Requiring Filings*, dated August 28, 2003. In this Order, we approved the seven
step plan ADT proposed for serving customers.

²⁴Hanson Affidavit at ¶¶ 20-21.

²⁵*Id.* at ¶ 9.

²⁶Alaska DigiTel, LLC (ADT).

1 Although we find that MTAW has generally demonstrated that it would be
2 capable of providing the nine basic services, we conclude that two of these services,
3 access to emergency services and Lifeline and Link Up services, warrant further
4 discussion.

5 Emergency Services

6 MTAW stated that it is currently capable of providing Phase I E-911
7 services throughout its coverage area using its TDMA/AMPS system. Although it is
8 capable of providing Phase I E-911 services, MTAW stated that the local PSAP in its
9 coverage area has requested only the call-back number information at this time. MTAW
10 further stated that it is capable of providing additional cell site and/or sector information
11 upon request by the local PSAP.²⁷

12 The FCC provided deployment deadlines to wireless carriers in
13 implementing Phase II 911 enhanced services in the *Non-Nationwide Carriers Order*
14 and reporting requirements for Tier III carriers.²⁸ MTAW stated that it is in compliance
15 with the FCC Phase II E-911 *Non-Nationwide Carriers Order* through its CDMA
16 network.²⁹ MTAW stated that 56 percent of all its new handsets activated are
17 location-capable. MTAW asserted that access to the universal service support will
18 enable it to accelerate upgrade of its nine existing TDMA/AMPS equipped cell sites to
19 CDMA technology and accelerate deployment of additional CDMA cell sites within two
20

21 ²⁷MTAW stated that the manufacturer of its TDMA/AMPS system will continue to
22 support the equipment through 2008.

23 ²⁸*Revision of the Commission's Rules to Ensure Compatibility with Enhanced*
24 *911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide*
25 *Carriers*, CC Docket No. 94-102, Order to Stay (*Non-Nationwide Carriers Order*),
26 FCC 02-210, (rel. July 26, 2002), at 13, para. 34.

²⁹MTAW stated that its CDMA system is capable of providing assisted-global
positioning satellite (A-GPS) location technology.

1 years of designation as an ETC. Based on the above, we believe that MTAW has
2 demonstrated its ability to meet the emergency services requirement associated with
3 ETC status.

4 Lifeline and Link Up Services

5 MTAW committed to provide Lifeline and Link Up services. MTAW stated
6 that for its qualified customers, it will offer a basic Lifeline rate of one dollar while Link
7 Up customers will be able to initially subscribe to service at no charge.³⁰ MTAW also
8 provided a means test for customers to be eligible under the Lifeline and Link Up
9 services.³¹

10 We recently adopted regulations that define the criteria to identify
11 customers eligible to participate in the Lifeline and Link Up programs and other
12 policies.³² MTAW shall comply with our Lifeline regulations when those regulations
13 become effective.

14 Public Interest Determination

15 In a recent decision evaluating an ETC application, the FCC stated that
16 the value of increased competition, by itself, is not sufficient to satisfy the public interest
17 test in rural areas. The FCC instead provided numerous factors in determining whether
18 designation of a competitive ETC in a rural telephone company's service area is in the
19 public interest. These factors include the benefits of increased competitive choice, the
20 impact of multiple designations on the USF, the unique advantages and disadvantages
21 of the competitor's service offering, any commitments made regarding quality of
22

23 ³⁰Response at 1-2.

24 ³¹*Id.* at 2-3.

25 ³²Order R-03-6(4), *Order Adopting Regulations and Requiring Tariff Filings*,
dated October 26, 2004. This Docket is entitled: *In the Matter of Proposed Regulations*
26 *Implementing Lifeline and Link Up Eligibility Policies.*

1 telephone service provided by competing providers, and the competitive ETC's ability to
2 provide the supported services throughout the designated service area within a
3 reasonable time frame.³³ We agree with the FCC that evaluation of the public interest
4 requires review of a variety of factors and cannot simply rest on increased competition.

5 MTAW stated that its designation as an ETC will benefit consumers
6 because it will provide improved services and technology, greater mobility, more
7 choices for consumers, alternative telecommunications services to remote and
8 unserved areas, improved service quality, and public safety.

9 We find that granting MTAW's ETC Application will improve customers'
10 ability to obtain wireless services, providing customers more choices for meeting their
11 communications needs. Low-income customers who otherwise would be unable to
12 afford wireless service will be able to obtain service using the Lifeline and Link Up
13 discounts. Although MTAW did not offer a rate plan based on receipt of universal
14 service support, it did, however, provide its current basic rate plans with local usage,
15 which provides an amount of minutes of use of service free of charge to end users.³⁴
16 Combined with the ability to make calls into metropolitan Anchorage without long
17 distance charges, these offerings could lower costs for consumers.³⁵

18 The mobility of MTAW's service also serves the public interest. Although
19 mobility is not one of the supported services, it is a convenience to the public. Mobile
20 service provides critical access to health and safety services when customers are at
21 home or away from their homes.
22
23

24 ³³ *Virginia Cellular* at ¶ 4.

25 ³⁴ Application at 9-10.

26 ³⁵ Response at 6.

1 We do not currently regulate the quality of service by MTAW,³⁶ and we do
2 not have sufficient evidence to define quality of service standards for wireless carriers.
3 However, if we receive customer complaints, we may examine whether MTAW is
4 meeting its ETC obligations throughout the service area. We may also consider ETC
5 service quality in a regulations docket upon petition or on our own motion.

6 MTAW asserted that ETC designation would allow it to expedite its
7 build-out plans for additional cell sites. MTAW expects to reach full CDMA coverage
8 with A-GPS capability by 2006. MTAW stated that it will deploy four new CDMA cell
9 sites in its first year as an ETC and additional six new cell sites in its second year.
10 MTAW also stated that it will establish redundant microwave sites which serves as
11 backup for its network. Such expansion of facilities may improve service quality which
12 would also be in the public service.

13 Advertising Services

14 The Act requires an ETC to advertise the availability of the nine basic
15 services (including Link Up and Lifeline) and the charges for the services using "media
16 of general distribution."³⁷

17 The APUC³⁸ required MTA to meet the following minimum criteria to
18 ensure appropriate and sufficient customer notification of its services.³⁹

19
20 ³⁶ See also 47 U.S.C. § 332.

21 ³⁷ Section 214(e)(1)(B).

22 ³⁸ The Alaska Public Utilities Commission (APUC or Commission) was the
23 predecessor to this agency. We assumed the responsibilities of the APUC on
24 July 1, 1999 under Ch. 25, SLA 1999.

25 ³⁹ Order U-97-187(1) at 16. Docket U-97-187 is titled *In the Matter of the Request*
26 *by MATANUSKA TELEPHONE ASSOCIATION, INC., for Designation as a Carrier*
Eligible to Receive Federal Universal Service Support Under the Telecommunications
Act of 1996.

1 a) once every two years MTAW must perform community outreach
2 through appropriate community agencies by notifying those agencies of
3 MTAW's available services;

4 b) once every two years MTAW must post a list of its services on a
5 school or community center bulletin board in each of the utility's
6 exchanges;

7 c) once a year MTAW must provide a bill stuffer indicating its
8 available services; and

9 d) once a year MTAW must advertise its services through a general
10 distribution newspaper at the locations it serves.

11 MTAW committed to meet the same criteria that we required of MTA in Order
12 U-97-187(1).

13 We believe that MTAW's proposal is in compliance with the minimum
14 criteria to ensure appropriate and sufficient customer notification of its services.

15 In summary, we find that granting ETC status to MTAW is in the public
16 interest. We conclude that MTAW adequately demonstrated that it met all other criteria
17 necessary to allow award of ETC status. We, therefore, grant ETC status to MTAW.

18 Conditions on ETC Status

19 Annual Certification

20 We monitor the continued appropriate use of universal service funding in
21 our rural markets by requiring annual certification by all designated ETCs, including
22 MTAW. Accordingly, we require MTAW to file the same information required of all other
23 rural ETCs in Alaska through our annual use-of-funds certification process.

24 Build-out Plans

25 MTAW provided its build-out schedule in the MTA study area. MTAW
26 committed to deploy no fewer than ten new CDMA cell sites in the MTA service area.
MTAW stated that high-cost support will help recover its cost of deployment. We will
monitor MTAW's progress in its network expansion and upgrade based on the build-out
schedule provided by MTAW.

1 Joint Board Recommendation

2 The Federal-State Joint Board on Universal Service issued its
3 recommendation⁴⁰ concerning the process for designation of ETCs and the payment of
4 USFs. The policies the FCC ultimately adopts in light of the Joint Board
5 recommendation may materially affect markets and consumers in Alaska. We may
6 re-evaluate all ETCs, including MTAW, after the FCC issues a decision on the
7 *Recommended Decision*.

8 With the above determinations, there are no outstanding substantive or
9 procedural matters remaining in this proceeding, and there are no allocable costs under
10 AS 42.05.651 or 3 AAC 48.157. Therefore, this Docket should be closed.

11 This Order constitutes the final decision in this phase of the proceeding.
12 This decision may be appealed within thirty days of the date of this Order in accordance
13 with AS 22.10.020(d) and the Alaska Rules of Court, Rule of Appellate Procedure
14 (Ak. R. App. P.) 602(a)(2). In addition to the appellate rights afforded by
15 AS 22.10.020(d), a party has the right to file a petition for reconsideration as permitted
16 by 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then
17 calculated under Ak. R. App. P. 602(a)(2).

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24 ⁴⁰In the Matter of Federal-State Joint Board on Universal Service, Recommended
25 Decision, CC Docket 96-45, rel. February 27, 2004 (*Recommended Decision*).
26

ORDER

THE COMMISSION FURTHER ORDERS:

1. The application filed by Matanuska-Kenai, Inc. d/b/a MTA Wireless for designation as a carrier eligible to receive federal universal service support under the Telecommunications Act of 1996 in the study area of Matanuska Telephone Association, Inc., is approved.

2. Matanuska-Kenai, Inc., d/b/a MTA Wireless shall file as if it were a regulated carrier in response to our requests for information for the annual use-of-funds certification to the Federal Communications Commission.

3. Docket U-03-86 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 8th day of December, 2004.

BY DIRECTION OF THE COMMISSION
(Commissioners Dave Harbour and James S. Strandberg,
not participating.)



Exhibit B



December 8, 2004

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 - 12th Street, SW
Washington, DC 20554

Irene M. Flannery
Vice President - High Cost and Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: Matanuska-Kenai, Inc. dba MTA Wireless (MTAW)
SPIN: 143000432
Eligible Telecommunications Carrier (ETC)

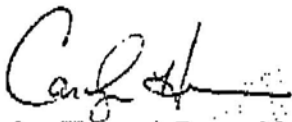
Dear Ms. Dortch and Ms. Flannery:

On December 8, 2004 the Regulatory Commission of Alaska (RCA) issued an order designating MTAW an ETC within the study area of Matanuska Telephone Association, study area code 613015. This designation allows MTAW to receive Universal Service support for the subscriber lines it serves within the study area.

Enclosed are the following documents necessary to facilitate MTAW's receipt of Universal Service support.

1. A sworn statement certifying that MTAW will use its **High-cost Loop** Universal Service support only for the purpose for which it is intended.
2. A letter certifying that MTAW will use its **Interstate Common Line** Universal Service support only for the purpose for which it is intended.

Please let us know if you need anything additional.


Carolyn Hanson, General Manager



In re:

Self Certification of MTA Wireless of its use of High Cost Loop funds

CC Docket 96-45

AFFIDAVIT OF GREGORY BERBERICH

STATE OF ALASKA

)ss.

THIRD JUDICIAL DISTRICT

Gregory Berberich, being first duly sworn, state as follows:

That I am a corporate officer of Matanuska-Kenai, Inc. dba MTA Wireless (MTAW), and I am authorized to execute this affidavit on behalf of MTAW.

That MTAW is not regulated by the Regulatory Commission of Alaska, and is required by 47 CFR 54.314 of the Federal Communications Commission's rules to self-certify as to its use of high-cost universal service support.

I certify that all High Cost Loop universal service support provided to MTAW will be used only for the provision, maintenance and upgrading of facilities and services for which this support is intended, pursuant to Section 254(e) of the Telecommunications Act.

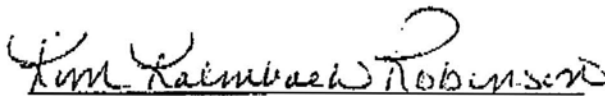
That a copy of this affidavit is being delivered to the Secretary of the
Federal Communications Commission and the Administrator of the Universal Service
Administration Company.

DATED this ____ day of December, 2004.



Gregory Berberich, Corporate Officer
Matanuska-Kenai, Inc., dba MTA Wireless

SUBSCRIBED AND SWORN to before me this 13 day of December,
2004.



Notary Public in and for Alaska

My Commission Expires: 07.29.2006